

## ARTICLE I. IN GENERAL\*

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**\*Editor's note:** Ord. No. 85-27, § 1, adopted Sept. 3, 1985, deleted Arts. I--III of Ch. 4, and enacted new Arts. I--III in lieu thereof, as set forth herein, the numbering of sections contained therein being at the discretion of the editor. Former Arts. I--III pertained to alcoholic beverages generally, retail licenses, on-premises consumption and licenses therefor, respectively, and were derived from the following: Code 1952, Ch. 4, §§ 1, 6--9; Ord. of 12-17-63, §§ 1--4; Ord. of 6-22-67, § 1; Ord. No. 73-16, §§ 1--25, adopted 9-24-73; Ord. No. 73-20, § 1, adopted 11-20-73; Ord. No. 76-20, § 1, adopted 11-16-76; Ord. No. 77-5, § 1, adopted 8-16-77; Ord. No. 79-6, § 1, adopted 3-6-79; Ord. No. 80-21, §§ 1, 2, adopted 8-18-80; Ord. No. 81-37, § 1, adopted 12-1-81; Ord. No. 82-29, § 1, adopted 9-7-82; Ord. No. 82-35, §§ 1, 2, adopted 10-19-82; Ord. No. 84-25, § 1(1)--(16), adopted 8-21-84; Ord. No. 84-27, §§ 1, 2, adopted 9-18-84; and Ord. No. 85-15, § 1, adopted 6-4-85.

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### Sec. 4-1. Definitions.

The following words and terms as used in this chapter are defined as follows:

*Alcoholic beverages:* Whiskey, brandy, rum, gin, cordials, beer, wine or any other liquid having more than one-half ( 1/2) per cent of alcohol by volume, used as a beverage.

*Consumption on the premises:* The sale of alcoholic beverages by the drink and for consumption only on the premises.

*Hotel:* A building or other structure, kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which fifty (50) or more rooms are used for the sleeping accommodations of such guests. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge or restaurant in their premises and the holder of such franchise shall be included in the definition of hotel thereunder.

*License:* The authorization by the city commission to engage in the sale of alcoholic beverages.

*Licensee for the sale of alcoholic beverages:* Any person duly licensed to sell alcoholic beverages.

*Liquor:* Any alcoholic beverage obtained by distillation, or containing more than twenty-one (21) per cent by volume including, but not limited to, all fortified wines.

*Lounge:* A separate room connected with a part of and adjacent to a restaurant or located in hotels as defined herein, or a separate establishment, with all booths, stools and tables being unobstructed and open to view. All lounges shall be air-conditioned and have a seating capacity of at least twenty-five (25). A lounge, as defined herein, which is operated on a different floor in the premises, or in a separate building, or is not connected to or adjacent to a restaurant shall be considered a separate establishment and shall pay an additional license fee therefor.

*Malt beverage:* Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of said products and water, containing not more than six (6) per cent by volume, and including ale, port, brown, stout, lager beer, beer, small beer and strong beer. The term does not include sake known as Japanese rice wine.

*Outdoor dining area* means a space in which a licensee serves food and beverages as part of the operation of the licensed premises as a restaurant, including the sidewalk, grass or paved area which is immediately adjacent to the licensed premises and is wholly located on private property. An outdoor dining area must be located directly in front of (or beside) and contiguous to a licensed restaurant. The width of an outdoor dining area shall not exceed the width of the licensed premises. An outdoor dining area shall contain no more than fifty (50) per cent of the inside premises total seating capacity. The space within an outdoor dining area shall be clearly marked and delineated as a separate area.

*Premises or business premises:* The definite closed or partitioned-in locality whether a room, shop or building, for which the sale of alcoholic beverage is licensed.

*Private club:* A corporation organized and existing under the laws of this state, or a fraternal or veterans organization, actively in operation within the city at least one year immediately prior to the application for a license hereunder, having at least seventy-five (75) members regularly paying monthly, quarterly, semiannual or annual dues, organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any shareholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of spirituous liquors to the club or its members or guests beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing board out of the general revenue of the club.

*Public recreational facility:* Any public property within the corporate limits of the city where regularly scheduled recreational activities are conducted by a public agency with said activities being open to the general public.

*Restaurant* means an establishment maintained, advertised and held out to the public as a place where meals are actually and regularly served, being provided with an adequate and sanitary kitchen conforming to applicable laws and regulations, with dining room equipment and personnel to serve complete meals, and which serves at least one (1) complete meal each day it is open for business, food service being the principal business conducted with the sale of alcoholic beverages being only incidental thereto.

*Retail dealer or distributor:* Any person selling to the general public alcoholic beverages not to be consumed on the premises and not for resale.

*Tavern manager:* Any person licensed to sell alcoholic beverages by the drink or for consumption only on the premises.

*Wine:* Any alcoholic beverage containing not more than twenty-one (21) per cent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

*Wholesale dealer or distributor:* Any person engaged in distribution or selling to licensees for the resale of alcoholic beverages.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 86-47, §§ 1, 2, 11-18-86; Ord. No. 05-23, § 1, 8-23-05; Ord. No. 05-34, § 1, 10-4-05)

## **Sec. 4-2. Purchase, possession of alcohol by persons under the legal age, as set by state law.**

It shall be unlawful for any person under the legal age, as set by state law to purchase or possess, in or upon any public way or public property, any alcoholic beverages.

(Ord. No. 85-27, § 1, 9-3-85)

**Sec. 4-3. Drinking and possession of alcohol by persons under the legal age, as set by state law.**

It shall be unlawful for any person under the legal age, as set by state law to drink or possess any alcoholic beverages on private property except with the full knowledge and consent of said person's parents or legal guardians.

(Ord. No. 85-27, § 1, 9-3-85)

**Sec. 4-4. Furnishing alcohol to persons under the legal age, as set by state law; permitting minors, as set by state law, to be upon premises where alcoholic beverages are sold.**

(a) No person shall knowingly, directly, or through another person shall furnish, cause to be furnished, or permit any person and such persons employed to furnish alcoholic beverage to any person under twenty-one (21) years of age; provided, however, that the provisions of this section shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or at a religious ceremony.

(b) It shall be unlawful for any licensee for the sale of alcoholic beverages as defined herein (which shall include any person holding a license under a "chapter 4, alcoholic beverages" of this Code) knowingly, by himself or through another, whether an agent or employee or otherwise, to permit upon the premises or business premises during hours when alcoholic beverages are being served or sold, any person who is a minor, as set by state law; provided, however, this section shall not apply to a restaurant (as defined in section 4-1) where alcoholic beverages are served.

(c) All licensees, their agents and employees shall examine a photographic identification which contains the age and/or date of birth of the holder of such identification to ensure an underage person is not sold, served or possesses alcoholic beverages. In this section, identification means any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth. Identification may include, but is not limited to, a passport, military identification card, driver's license or state department of public safety ID card.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 87-12, §§ 1, 2, 4-21-87; Ord. No. 92-31, § 1, 9-1-92; Ord. No. 05-28, § 1, 9-20-05)

**Sec. 4-5. Dealing with drunkards.**

No licensee under this chapter shall give, sell, or offer to sell any alcoholic beverage to any person who is noticeably intoxicated, or who is a habitual drunkard whose intemperate habits are known to said licensee.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-6. Consumption in places selling food.**

- (a) It shall be unlawful for any person to drink alcoholic beverages in any public place of business where food, beer or soft drinks are sold.
- (b) It shall be unlawful for any person who is in charge of any public place of business where food, beer or soft drinks are sold, to permit the drinking of alcoholic beverages within such place of business located in the city.
- (c) Provided, however, that the foregoing provisions of this section shall not apply in or to those places of business holding a valid license to engage in the business of alcoholic beverages for consumption only on the premises issued under the ordinances of the city authorizing the same.
- (d) Nothing in this section shall be construed to permit or authorize brown-bagging.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 97-37, § 1, 11-19-97)

#### **Sec. 4-7. Consumption upon public ways, public street or highway, public property or public place.**

It shall be unlawful for any person to drink any alcoholic beverages in or upon any public way, public street or highway, public property, or public place. "Public street or highway" means the entire width between the boundary lines of every way maintained when any part thereof is open to the use of the public for purposes of vehicular travel. "Public place" is defined in section 1-2 of this Code.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 89-25, § 1, 9-19-89)

#### **Sec. 4-8. Times for sale.**

No licensee under this chapter shall furnish, sell, or offer for sale any alcoholic beverages at any of the following times:

- (a) At any time in violation of the state law or rules or regulations of the state revenue commissioner, except that the sale of alcoholic beverages or liquors within the corporate limits of the city on any election days shall be permitted and shall not be unlawful; or
- (b) At any time in violation of a local ordinance or regulation or a special order of the city commission; or
- (c) On any day from 2:00 a.m. to 8:00 a.m.
- (d) On any Monday from midnight on Sunday until 2:00 a.m. Monday.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 98-33, § 1, 11-3-98)

#### **Sec. 4-9. Sanitary conditions.**

All premises used for the sale of alcoholic beverages, or for the storage of alcoholic beverages for sale, shall be kept in full compliance with the ordinances regulating the condition of premises used for the storage or sale of food for human consumption.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-10. Location restrictions.**

- (a) No alcoholic beverage license shall be granted to any individual, copartnership or

corporation unless the proposed location is in compliance with state law.

(b) No alcoholic beverage license shall be granted unless the following distance requirements, as measured by way of the nearest traveled road, street or highway, are met:

(1) The entire business premises of the proposed location shall be situated two hundred (200) yards from the property line of any school ground or college campus.

(2) The entire business premises of the proposed location shall be situated one hundred (100) yards from the property line of any church, provided, that this restriction shall not apply to those places of business licensed to sell alcoholic beverages prior to the location of a church within the prohibited distance.

(3) The entire business premises of the proposed location shall be situated one hundred (100) yards from the property line of any public recreation facility.

(c) Each application for an alcoholic beverage license shall include a scale drawing of the location of the proposed premises showing the distance to the nearest school ground, college campus, church or public recreation facility or a certificate of a registered surveyor that such location complies with this section.

(d) The restrictions as to locations herein contained, except for restrictions required by state law, shall not apply to the following businesses:

(1) Hotels.

(2) Restaurants.

(3) Retail dealers of malt beverages and wine.

(4) Wholesale dealers of any alcoholic beverages.

(5) Any applicant for a location within a C-4 Central Business District.

(6) Any licensee approved to sell alcoholic beverages prior to November 1, 1985, said licensees being restricted by location requirements in effect prior to the date hereinabove.

(7) Any location where one or more licenses issued under this chapter is in effect on or before January 1, 1987 and where the licensee sells or transfers the business thereon; provided, however, the proposed purchaser or transferee must be qualified to be a licensee under the terms and provisions of this chapter. For the purposes of this section 4-10, passing of ownership of the business because of death or a probate court proceeding shall be considered as a sale or transfer.

(e) Zoning. No license shall be issued for the sale, either at wholesale or retail, of alcoholic beverages unless the licensee's place of business is located in an area within the county that is properly zoned for the sale of alcoholic beverages.

(f) No license shall be issued under this section to any premises which do not meet the requirements of all state, county and city laws, ordinances and regulations which would apply to said premises, including, but not limited to, building, fire and sanitation codes.

(g) The restrictions on locations as stated herein are in addition to, and not in lieu of, any restrictions imposed by the laws of the state.

(h) Further, the city commission may, in its discretion, issue or deny any license when there is evidence that the type and number of schools, churches, libraries or public recreation areas in the vicinity of the place of business of the licensee causes minors to frequent the immediate area, even though there is compliance with the minimum distances as provided herein.

(i) No license in effect on the date of the adoption of this section shall be revoked before its day of expiration by reason of the method of measurement set out in this section if the license

was granted in reliance on another method of measurement.

(j) All measurements, to determine distances for the issuance of alcoholic beverage license shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- (1) Except where the distance is being measured from a school, from the front door of the structure from which alcoholic beverage is sold or offered for sale; where the distance is being measured from a school, the distance shall be measured from the property line of the structure from which the alcoholic beverage is sold or offered for sale;
- (2) In a straight line to the nearest public sidewalk, street, road or highway;
- (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
- (4) To the front door of the building or to the grounds where the measurement is to a school, whichever is applicable.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 86-47, § 3, 11-18-86; Ord. No. 87-51, § 1, 12-1-87; Ord. No. 99-26, § 1, 11-16-99)

#### **Sec. 4-11. Business restricted.**

No licensee shall sell or deliver any alcoholic beverage to any person except in said licensee's place of business.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-12. Types of entertainment, attire and conduct prohibited in establishments.**

The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve, or dispense alcohol beverages for consumption on such premises within the incorporated area of the City of Waycross, Georgia.

- (1) The employment of use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.
- (2) Live entertainment where any person appears in the manner described in paragraph (1) of this section or where such persons (or person) perform(s) acts of or acts which simulate any of the following:
  - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.
  - b. The caressing or fondling of the breasts, buttocks, anus or genitals.
  - c. The displaying of the male or female pubic hair, anus, vulva or genitals.
- (3) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event of any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in paragraphs (1) and (2) above; provided, however, that nothing contained in this section shall apply to the premises of any mainstream performance house, museum or theater which derives less than twenty (20) per cent of its gross income from the sale of alcohol beverages.

**Sec. 4-13. Brown-bagging.**

(a) For the purposes of this chapter:

(1) *Brown-bagging* means the bringing, taking, or carrying of any alcoholic beverage (1) into a business, restaurant, music hall, theater or other establishment providing food or entertainment in the normal course of business licensed to operate within the city, or (2) into a business, restaurant, music hall, theater or other establishment providing food or entertainment in the normal course of business which should be licensed to operate within the city, but which business, restaurant, music hall, theater or other establishment providing food or entertainment in the normal course of business is not licensed for the consumption of alcoholic beverages on the premises, provided, however, that bringing an alcoholic beverage into a house, apartment, room or other unit designed for private residential occupancy shall not fall within this definition. "Brown-bagging" also means "bottle club" or "bring your own bottle".

(2) *Bottle club, or bring your own bottle* means any restaurant, music hall, theater or other establishment providing food or entertainment in the normal course of business and in which the owners or their agents knowingly allow patrons bring in and consume the patrons' own alcoholic beverages. "Bottle club" or "bring your own bottle" shall be included in the definition of "brown-bagging."

(3) Brown-bagging shall also include the following prohibited acts:

- a. Any person who brown-bags;
- b. Any person participating in consumption of any alcoholic beverage being brown-bagged;
- c. Any person who consumes an alcoholic beverage on any premises holding a business license, except for those premises licensed for on-premises consumption of alcoholic beverages or otherwise exempted from the definition of brown-bagging by virtue of the private residential character of the occupancy;
- d. Any employee of the business, restaurant, music hall, theater or other establishment providing food or entertainment in the normal course of business in whose presence brown-bagging knowingly or with reckless indifference occurs.

(4) Brown bagging shall not include or prohibit the following:

- a. The providing of alcoholic beverages at a function sponsored by a nonprofit (A) organization, (B) association, or (C) other organization where the alcoholic beverages are provided by the holder of one or more licenses pursuant to this chapter and the alcoholic beverages are served and poured by employees of such licensee or licensees; provided, however, no function shall be held at the same location more than once in any thirty-day period.

(b) Brown-bagging is prohibited within the city.

(c) The business license of any premises upon which brown-bagging knowingly or with reckless indifference occurs shall be subject to suspension or revocation by the city commission. Such a suspension or revocation action shall follow the procedures set forth in the Code of the City of Waycross. Any conviction or plea of guilty or nolo contendere in the municipal court to a charge of brown-bagging shall be admissible in any license suspension or revocation proceeding.

(Ord. No. 97-37, § 2, 11-19-97; Ord. No. 97-40, § 1, 12-16-97)

**Sec. 4-14. Outdoor dining areas.**

(a) *Generally.* It shall be unlawful for any person to drink any vinous, malt or other alcoholic beverage while on any streets, sidewalks, alleyways, parking areas or other open areas operated and controlled by the city, or while in or on the grounds of any park in the city.

(b) *Regulations applicable to outdoor dining areas.*

(1) Every outdoor dining area caf shall be temporary in nature and designed so that the entire dining area structure and its appurtenances including but not limited to chairs, tables, fencing, bollards and planters can be easily removed during periods of non-use. Furthermore, the city reserves the right to require the user to remove the outdoor dining area if and when it determines it necessary.

(2) No portion of an outdoor dining area may be used for any purpose other than dining. Outdoor dining areas must serve meals. The hours of operation for outdoor cafes shall be the same as the hours for the inside restaurant. Outdoor dining areas located wholly on private property may permit the sale and service of alcoholic beverages with the service of the meals as long as the licensee is licensed in accordance with chapter 4 of this Code and the laws of the state.

(3) All outdoor dining area cabs must comply with all applicable federal, state and local laws and regulations, including the Americans with Disabilities Act. A minimum unobstructed sidewalk passageway from end of use (parallel to street) of not less than four (4) feet in width at all points will be required.

(Ord. No. 05-34, § 2, 10-4-05)

Secs. 4-15--4-20. Reserved.

## **DIVISION 1. GENERALLY**

### **Sec. 4-21. Separate place of business.**

A separate alcoholic beverage license shall be required for each separate business premises.  
(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-21.1. Notice.**

An applicant for retail dealer license for the sale of distilled spirits within the city shall cause a legal advertisement to be published in accordance with the provisions of O.C.G.A. Section 3-4-27. Said notice shall be published at least once during the thirty (30) days immediately preceding the filing of the application for license and shall contain the information required by said section. The applicant shall, at the time of filing the application with the city present a copy of the legal advertisement and shall indicate the date of publication and the newspaper published. Said advertisement shall contain not less than the following information: (1) The type of license for which application has been filed; (2) the exact location of the place of business for which a license is sought; (3) the names and addresses of each owner of the business; and, (4) if the applicant is a corporation, the names and titles of all corporate officers.

(Ord. No. 91-17, § 1, 8-6-91)

### **Sec. 4-22. Separate license per class.**

A separate alcoholic beverage license is required for each class of business as listed below:

Class I--Wholesale.

Class II--Retail.

Class III--Consumption on the premises.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-23. One license per place of business.**

Only one alcoholic beverage license at a time shall be issued to each separate business premises.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-24. Display.**

Licenses issued under this chapter shall be displayed prominently in public view at all times on the premises for which same was issued.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-25. Suspension.**

The city commission shall have the right, upon the recommendation of the chief of police, to suspend any alcoholic beverage license pending the hearing provided for hereinbelow, where, in the judgment of the commission, such action is necessary to protect the public health, safety, welfare and morals.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-26. Revocation, suspension, civil penalties--Grounds.**

(a) Any license issued pursuant to chapter 4, alcoholic beverages of this Code, shall be subject to revocation on any of the following grounds:

- (1) The licensee ceases to become a resident of Ware County, Georgia.
- (2) The licensee ceases to satisfy the requirements of section 4-43(2) of this Code.
- (3) The licensee is convicted of a felony after issuance of the license or licenses.
- (4) The licensee is convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- (5) The licensee's state license for the sale of any alcoholic beverage as defined in Section 3-1-2, O.C.G.A. should be revoked.
- (6) If the licensee is a copartnership and one or more copartners should cease to be a copartner.
- (7) If the licensee is a corporation, and if any officer, manager or director thereof, or any stockholder owning twenty-five (25) per cent or more of the stock of such corporation ceases to be eligible to receive an alcoholic beverage license under this chapter 4 for any reason other than residence in Ware County.
- (8) If the person whose place of business is conducted by a manager or agent and the manager or agent ceases to have the same qualifications required of an individual licensee.
- (9) If the licensee is convicted of a violation of any federal, state law or city ordinance concerning the manufacture or sale of alcoholic beverages (as defined in either Section 3-1-2, O.C.G.A., or as defined in section 4-1 of this Code) or who shall have forfeited his bond to appear in court to answer charges for any such violation.
- (10) If the licensee ceases to own the premises for which the license(s) are held, or if the premises are held pursuant to a lease, and the lease terminates while the license(s) would otherwise be in force and effect.

(b) Any person violating the rules and regulations set out in this chapter, including, but not limited to, those rules and regulations set forth in subsection (a) of this section 4-26, shall be subject to revocation of his license and punishment as prescribed by the city commission. In addition to the rules and regulations hereinabove set out, each licensee doing business in the city under this chapter shall comply with all the laws of the state, federal laws, and rules and regulations of the state revenue commissioner relating to the sale and distribution of alcoholic beverages in the state, and any violation of same shall subject said licensee to immediate suspension or revocation of his retail liquor license and any other license issued by the city under this chapter, and also subject said licensee to criminal prosecution by the proper authority as provided by law, this Code and the ordinances of the city.

(c) The city commission, in addition to or in lieu of suspension of a license issued pursuant to this chapter, may impose a civil penalty not to exceed one thousand dollars (\$1,000.00) per

violation on any licensee violating one or more of the following:

- (1) Rules and regulations set forth in this chapter.
- (2) The laws of the state governing or regulating the sale and/or distribution of alcoholic beverages.
- (3) The rules and regulations of the revenue commissioner of the state governing or regulating the sale and/or distribution of alcoholic beverages.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 87-45, §§ 1--3, 10-20-87; Ord. No. 98-18, §§ 1, 2, 7-7-98; Ord. No. 00-35, § 2, 12-5-00; Ord. No. 00-36, § 2, 12-19-00)

#### **Sec. 4-27. Same--Procedure.**

(a) No license which has been issued by the city under this chapter shall be revoked or suspended except for due cause. Upon information provided to the commission concerning any licensee violating any of the provisions outlined in this chapter, the licensee shall be given notice in writing to show cause before the commission at a time and place specified therein not less than three (3) days nor more than fourteen (14) days from the service of the notice, why said license should not be revoked, stating the grounds therefore. At the appointed time and place, the licensee shall have an opportunity to show cause why said license should not be suspended or revoked, after which the commission shall take such action as it, in its judgment shall deem warranted under the facts.

(b) In the event a license is suspended or revoked, the licensee shall have the right to request an appeal of the suspension or revocation. Said appeal shall be in writing and shall be filed with the city clerk on or before the expiration of ten days from the date of the notice of due cause hearing. In order to have a stay of the suspension or revocation pending the hearing on the appeal, licensee/appellant shall pay any and all fines assessed with the revocation or suspension.

(c) The appeal shall be a rehearing before the commission, to be followed by the vote of the commission to affirm the suspension or revocation, to reduce the suspension or revocation or to increase the time of suspension or revocation. No further appeals shall be permitted and the decision of the commission shall begin the next business day and continue for the requisite number of business days set for the suspension or revocation and shall be final.

(d) Initial notice of the hearing in subsection (a) shall be by service of the notice by a police officer or other agent authorized by the city, by leaving a copy with the licensee at the address of the licensee appearing in the application location or by leaving a copy of the notice with the location alleged to be in violation when the licensee has not been located at the address in the application. Any further notices--including the due cause notice and final notice--may be by certified mail, facsimile, email or regular mail or such other service as may be agreed by licensee and city at the hearing or thereafter. In the event of no agreement, all further notices shall be by certified mail to the licensee at the location alleged to be in violation.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 05-29, § 1, 9-20-05)

Secs. 4-28--4-35. Reserved.

## **DIVISION 2. APPLICATION**

### **Sec. 4-36. Required.**

It shall be unlawful to operate a place of business as a tavern manager, distiller, wholesale dealer or retail dealer in alcoholic beverages within the corporate limits of the city without first obtaining a license as required by this chapter and paying the fee required by the current business license ordinance.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-37. Application granted by commission.**

No license shall be granted under the provisions of this chapter except by direct action of the city commission and only upon written application therefore in the form and manner prescribed by the commission, which form shall be made available by the city clerk to the general public.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-38. Duration.**

Each license issued under the provisions of this article shall expire at midnight on December thirty-first of the calendar year for which it is issued.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-39. Renewal.**

No license issued under the provisions of this chapter shall be automatically renewed. A licensee who desires to continue in business during the next subsequent calendar year shall make an application for such year on or before November first of the preceding year.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-40. Transfer.**

A licensee shall be a purely personal privilege and shall not constitute property. No license issued under the provisions of this chapter shall be automatically transferred to another individual, copartnership or corporation. A license applicant who desires to continue the business of a prior licensee shall be considered a new applicant and shall be required to comply with all provisions of this chapter currently in effect.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-41. Fees.**

The annual fees for alcoholic beverages licenses shall be as established by the commission of the city from time to time, by resolution adopted at any regular or special meeting of said commission,

which fees shall be paid prior to the issuance of any license, shall accompany the application and shall be either in cash or a bank certified check, said fees to be refunded in full should the commission deny the application. The fees that apply for the issuance of alcoholic beverage licenses in the city that apply until changed by said commission by resolution amending or changing said fees, shall be as follows:

(1) *Consumption on premises:*

Beer . . . \$293.75

Wine . . . 212.50

Liquor . . . 2,500.00

(2) *Sale by the package, not for consumption on the premises:*

Beer . . . \$243.75

Wine . . . 175.00

Liquor . . . 1,587.50

(3) *Sale by private club:*

Beer . . . \$293.75

Wine . . . 150.00

Liquor . . . 1,875.00

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 04-17, § 1, 9-7-04)

#### **Sec. 4-42. Application information.**

Applications for alcoholic beverage licenses shall contain the following statements and information:

(1) The name and address of the applicant in the case of an individual; in the case of a copartnership, the persons entitled to share in the profits thereof; in the case of a corporation, the names and address of the officers and directors, and if twenty-five (25) per cent or more interest of the stock of such corporation is owned by one person or his nominee, the name and address of such person.

(2) The type of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(3) The length of time said applicant has been in business of that type or in the case of a corporation, the date when its charter was issued.

(4) The location and description of the premises or place of business which is to be operated under such license.

(5) A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.

(6) A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this article, laws of this state, or the ordinances of this city.

(7) Whether a previous license by any state or subdivision thereof, or by the federal government has been revoked, and the reasons therefor.

(8) A statement that the applicant will not violate any of the laws of the State of

Georgia, or of the United States, or any ordinance of the city in the conduct of his place of business.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-43. Restriction on licenses.**

No such license shall be issued to:

- (1) A person who is not a resident of Ware County.
- (2) A person who is not (a) a citizen of the United States, or (b) not a United States citizen lawfully admitted to be a permanent resident of the United States. If the applicant is a corporation, than all of the shareholders of such corporation must meet the requirements of this subsection. The license (if approved) shall be issued jointly to the corporation and to a shareholder who is either the majority shareholder, or owns a larger percentage of shares than any other shareholder. If the applicant is a partnership, all partners, whether general or limited, shall meet the requirements of this subsection. If the applicant is a limited liability company then all managers and all investors therein shall meet the requirements of this subsection.
- (3) A person who has been convicted of a felony, provided that the city commission may at its discretion issue a license to persons with felony convictions more than five (5) years before the application for license is made.
- (4) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- (5) a. To a person who had a license revoked for cause under this chapter only once for a period of two (2) years following such revocation;  
b. To a person who has had a license revoked for cause under this chapter twice for a period of five (5) years following the second such revocation;  
c. No license shall be issued to a person who has had a license revoked for cause under this chapter three (3) or more times.
- (6) A copartnership, unless all of the members of such copartnership shall be qualified to obtain a license.
- (7) A corporation, if any officer, manager or director thereof, or any stockholder owning twenty-five (25) per cent or more of the stock of such corporation, would not be eligible to receive an alcoholic beverage license hereunder for any reason other than residence in Ware County.
- (8) A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of an individual licensee.
- (9) A person who has been convicted of a violation of any federal, state law or city ordinance concerning the manufacture or sale of alcoholic beverages or who shall have forfeited his bond to appear in court to answer charges for any such violation.
- (10) A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is issued.
- (11) Any person, firm, or corporation not eligible for a state alcoholic beverage license.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 91-04, 3-19-91; Ord. No. 00-35, § 1, 12-5-00; Ord. No. 00-36, § 1, 12-19-00)

#### **Sec. 4-44. False information.**

The making of any statement on an application for license to sell alcoholic beverages which shall be later found to be false shall constitute grounds for revocation of said license.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-45. Consideration by commission.**

(a) The city commission, in their discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant for a license required by this chapter, application or the proposed location of the business. If in their judgment, circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.

(b) In determining whether or not any license applied for hereunder shall be granted, renewed, transferred or issued to a new location, in addition to all the provisions of this section, the following shall be considered in the public interest and welfare:

(1) *Reputation, character.* The applicant's reputation, character, trade and business associations or past business ventures, mental and physical capacity to conduct this business.

(2) *Previous violations of liquor laws.* If the applicant is a previous holder of a license to sell alcoholic liquors, whether or not the applicant has violated any law, regulation or ordinance relating to such business.

(3) *Manner of conducting prior liquor business.* If the applicant is a previous holder of a license to sell alcoholic liquors, the manner in which the applicant conducted the business thereunder, especially as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.

(4) *Location.* The location for which the license is sought, as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values.

(5) *Number of licenses in trading area.* The number of license already granted for similar business in the trading area of the place for which the license is sought.

(6) *Dancing.* If dancing is to be permitted upon the premises for which the license is sought and the applicant has previously permitted dancing upon any premises controlled or supervised by him, the manner in which he controlled or supervised such dancing to prevent any violation of any law, regulation or ordinance.

(7) *Previous revocation of license.* If the applicant is a person whose license issued under the police powers of any governing authority has been previously suspended or revoked or who has previously had an alcoholic beverage license suspended or revoked.

(8) *Payment of taxes.* If the applicant and business are not delinquent in the payment of any local taxes.

(9) *Congregation of minors.* Any circumstances which may cause minors to congregate in the vicinity of the proposed location, even if the location meets the distance requirements under section 4-10(b).

(10) *Prior incidents.* Evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location, if within the city or within the immediate area if in the unincorporated area of the county, during the twelve (12) months immediately preceding the date of application.

(11) *Previous denial or revocation.* The denial of an application, or the revocation of a license, occurring within the preceding twelve (12) months, which was based on the qualifications of the proposed location.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 05-27, § 1, 11-01-05)

#### **Sec. 4-46. Additional considerations.**

In determining whether or not any license applied for hereunder shall be granted, renewed, transferred or issued to a new location, in addition to all the provisions of this section, the following shall be considered in the public interest and welfare:

(1) *Reputation, character.* The applicant's reputation, character, trade and business associations or past business ventures, mental and physical capacity to conduct this business.

(2) *Previous violations of liquor laws.* If the applicant is a previous holder of a license to sell alcoholic liquors, whether or not the applicant has violated any law, regulation or ordinance relating to such business.

(3) *Manner of conducting prior liquor business.* If the applicant is a previous holder of a license to sell alcoholic liquors, the manner in which the applicant conducted the business thereunder, especially as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.

(4) *Location.* The location for which the license is sought, as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values.

(5) *Number of licenses in trading area.* The number of license already granted for similar business in the trading area of the place for which the license is sought.

(6) *Dancing.* If dancing is to be permitted upon the premises for which the license is sought and the applicant has previously permitted dancing upon any premises controlled or supervised by him, the manner in which he controlled or supervised such dancing to prevent any violation of any law, regulation or ordinance.

(7) *Previous revocation of license.* If the applicant is a person whose license issued under the police powers of any governing authority has been previously suspended or revoked or who has previously had an alcoholic beverage license suspended or revoked.

(8) *Payment of taxes.* If the applicant and business are not delinquent in the payment of any local taxes.

(9) *Congregation of minors.* Any circumstances which may cause minors to congregate in the vicinity of the proposed location, even if the location meets the distance requirements under section 4-10(b).

(10) *Prior incidents.* Evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location, if within the city or within the immediate area if in the unincorporated area of the county, during the twelve (12) months immediately preceding the date of application.

(11) *Previous denial or revocation.* The denial of an application, or the revocation of a license, occurring within the preceding 12 months, which was based on the qualifications of the proposed location.

(Ord. No. 99-26, § 2, 11-16-99)

## **DIVISION 3. SERVER'S PERMIT**

### **Sec. 4-47. Registration of persons who sell and take orders for the sale of alcoholic beverages.**

(a) (1) Any person who serves or distributes alcoholic beverages, as defined in this chapter, by virtue of any license or on behalf of any licensee holding a license issued pursuant to the terms of this chapter (excluding wholesale dealers and distributors) including, without limitation, server, bartender, cashier, clerk, check-out clerk, waiter, waitress, manager, owner, proprietor, volunteer and otherwise, must, before serving or distributing alcoholic beverages, obtain a retail alcoholic beverage server's permit(i.e. server's permit), pursuant to the terms of this division. This does not apply to those persons who work in a licensed facility but who do not sell or serve alcoholic beverages.

(2) Each person who wishes to obtain a server's permit as described in 4-47(a)(1) must apply for such permit, must be fingerprinted, photographed, and be issued a server's permit by the police department of the city prior to selling or serving alcoholic beverages.

(3) Server's permits are valid only until the last day of the month of the licensee's license for the sale of alcoholic beverages issued by the city. The holder of the permit may apply for renewal within thirty (30) days prior to the expiration date of the permit. The procedure for application for initial registration or renewal registration shall be established by the police department.

(b) Registration before starting work. No holder of a license issued under this chapter nor any agent of the licensee, whether a person, firm or corporation, shall allow any person to sell or serve alcoholic beverages in the business of the licensee unless that person shall have first been fingerprinted, photographed, and issued a retail alcohol beverage server's permit by the police department as provide herein.

(c) Applicants for a retail alcohol beverage server's permit shall provide all personal information required by the police department to establish the true identity and criminal history, if any, of the applicant. Applications for a server's permit shall be filed with the city police department on such forms as may be provided by said department. Each applicant shall provide such information as may be required by the application and shall pay an application fee, to be established from time to time by the city commission, at the time of filing the application. No application will be processed or considered until the applicant files the application and pays the application fee.

(d) Retail alcohol beverage server's permits. Persons holding a server's permit pursuant to this division are required to have the server's permit in their immediate possession and prominently displayed on their person during the hours they sell or serve alcoholic beverages. The permit shall contain the server's name, picture, and license number.

(e) (1) Initial retail alcohol beverage server's permits shall not be issued to any person initially who has any conviction or bond forfeiture for any violation of law, regulation tantamount to law or ordinance regarding controlled substances and/or alcoholic beverages within five years of the date of application. Further no permit to serve shall be valid or issued to a person on parole or probation for the purpose of employment in a bar.

(2) Any person previously issued a server's permit under the provisions of this code section shall be deemed qualified to hold a permit under this code provision and no violations shall affect this holder except those occurring from the date of issuance.

(f) An person who has been issued a server's permit who is convicted of, pleads guilty to, pleads nolo contendere to, or forfeits bond for any violation of law, regulation tantamount to law

or ordinance regarding controlled substances and/or alcoholic beverages shall immediately surrender said server's permit to the police department of the city as an invalid permit and shall not serve or distribute alcoholic beverages in the city. No person shall be allowed to continue to hold or exercise the privileges of and granted by a server's permit or shall have a server's permit renewed if convicted of, pleads guilty to, pleads nolo contendere to, or forfeits bond for any violation of law, regulation tantamount to law or ordinance regarding controlled substances and/or alcoholic beverages for a period of five (5) years. No renewal permit shall be issued to a person on parole or probation for the purpose of employment in a bar.

(g) (1) Any server's permit issued pursuant to the terms of this chapter shall be subject to suspension or revocation for violation of this chapter including, without limitation, the violation of any of the provisions of subsection 4-46 (f) of this chapter.

(2) When a person who has been issued a server's permit loses their permit for a violation of title 3, O.C.G.A. or chapter 4 of this Code or any and all other laws for a third time within a ten-year period, said person shall not longer be eligible to receive a permit to sell or serve alcoholic beverages.

(h) (1) Any person who has been issued a server's permit pursuant to the provisions of this chapter shall be entitled to a due process hearing prior to final action, suspension or revocation of a server's permit.

(2) A server's permit may be temporarily suspended by the city manager or his/her designee, pending a hearing, in the event of special circumstances and conditions. When the person permitted to sell or serve alcoholic beverages makes a sale to an underaged person, the officer may immediately take possession of the permit issued hereunder at the making of the charge and the person so charged may not sell or serve any alcoholic beverages to anyone pending a hearing.

(3) The holder of a server's permit shall be served with notice of violation of this division and shall be offered a hearing before the city manager or his/her designee.

(i) The terms retail alcoholic beverage server's permit and server's permit as used in this chapter shall be synonymous.

(Ord. No. 05-27, § 1, 9-20-05; Ord. No. 06-05, §§ 1, 2, 2-21-06)

#### **Sec. 4-48. Use of persons with prior convictions prohibited.**

(a) The holder of an alcoholic beverage license issued hereunder shall not allow any person who has any conviction or bond forfeiture for any violation of law, regulation tantamount to law or ordinance regarding controlled substances and/or alcoholic beverages within five years of the date of employment or service to sell or serve alcoholic beverages in any capacity on the premises where said beverages are sold. Further no permit to serve shall be valid or issued to a person on parole or probation for the purpose of employment in a bar.

(b) Notwithstanding the above provisions, the city commission, in its sole discretion, may direct the issuance of a letter of eligibility to persons who have in the past been convicted of or pled guilty to entered a plea of nolo contendere or forfeited a bond on any crime not involving force or violence, and the city commission after thorough investigation of all the facts including parole or probation officers' reports, judges' recommendations, and other evidence bearing on the character of the applicant have determined that such action is in keeping with the public good and ends of justice, or the public interest and welfare.

(Ord. No. 05-27, § 1, 9-20-05; Ord. No. 06-05, § 3, 2-21-06)

**Sec. 4-49. Licensee responsible.**

The holder of an alcoholic beverage license issued pursuant to the terms of this chapter shall provide proper supervision of the sales and serving of alcoholic beverages at the location for which the license is issued pursuant to the terms of this chapter and upon the failure of any holder of an alcoholic beverage license issued pursuant to the terms of this chapter to properly supervise the sales and serving of alcoholic beverages at such location as required by this chapter, said license shall be subject to suspension or revocation in accordance with the other terms of this chapter.

(Ord. No. 05-27, § 1, 9-20-05)

Secs. 4-50--4-55. Reserved.

## **ARTICLE III. CONSUMPTION ON THE PREMISES\***

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**\*Note:** See the editor's footnote to Article I of this chapter.

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### **Sec. 4-56. Applicability of article provisions.**

The provisions of this article shall apply exclusively to alcoholic beverage licenses for consumption on the premises (Class III). Regarding said licenses, the provisions of this article shall apply when in conflict with other sections of this chapter.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-57. Quantity of sale.**

No consumption on the premises licensee may purchase liquor in containers smaller than one-fifth ( 1/5) gallon. The sale of liquor by any consumption on premises licensee in unbroken packages or in any quantity for other than consumption on the premises is expressly prohibited.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-58. Qualifications of applicant.**

(a) Any applicant for a consumption on the premises license shall show, to the satisfaction of the city commission, financial responsibility. Financial statements shall be submitted with each completed application as prescribed by the commission. Forms of the same are to be furnished by the commission along with or included in the application forms for license.

(b) No applicant for a license who has been convicted of a crime involving moral turpitude shall be granted a license.

(c) No consumption on the premises license shall be granted to any person unless such person is of legal age.

(d) In addition to all other requirements, no license shall be issued to any applicant who does not meet the definition of a private club, restaurant, hotel or lounge.

(Ord. No. 85-27, § 1, 9-3-85)

### **Sec. 4-59. Premises generally.**

No consumption on the premises license shall be issued unless the building in which the premises will be located is complete and detailed plans of said buildings are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the city, regulations of the state revenue commissioner, and the laws of the state. The proposed building shall also be subject to final inspection and approval, when completed, by the code enforcement inspector. Each building in which the business will be located shall provide sufficient

lighting so that the building itself and all sides of the building are readily visible at all times so as to reveal all of the outside of said building. Each applicant for a consumption on the premises license shall attach to his application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. All premises within a building, for which a consumption on the premises license shall be issued, shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by customers therein.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-60. Knowledge of chapter.**

All holders of a consumption on the premises license shall keep a copy of this chapter in their premises and shall instruct any person working there with respect to the terms hereof, and each licensee or his agents selling alcoholic beverages shall at all times be familiar with the terms hereof. The licensee shall be held responsible for any acts of his employees in any violation of this chapter, or of the laws of the State of Georgia, or the rules and regulations of the Georgia revenue commissioner.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-61. Inspection of premises.**

The business premises of the holder of a consumption on the premises license shall be open to inspection at any time and all times by officer or officials charged to conduct such inspections.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-62. Scope of license.**

A licensee for the sale of alcoholic beverages for consumption on the premises shall have the right to serve liquor, beer or wine, provided he shall secure a business license therefor and pay the license fee as specified by the current business license ordinance.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-63. Location restricted.**

No consumption on the premises license shall be granted under the provisions of this article:

- (a) For a location not suitable in the judgment and discretion of the city commission because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties, or on the neighborhood.
- (b) For a location within an area where, in the judgment of the commission, the number of alcoholic beverage licenses already granted makes it contrary to the public interest and welfare.
- (c) For a location at which the operation of the proposed business would be in violation of the zoning ordinance of the city.
- (d) For a location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the commission, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that

it is not in the interest of public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.

(Ord. No. 85-27, § 1, 9-3-85)

#### **Sec. 4-64. Employment of minors.**

(a) No person under eighteen (18) years of age shall be employed in any capacity in any place of business licensed to sell alcoholic beverages for consumption on the premises.

(b) This section shall not be applicable to a restaurant as defined in section 4-1 where alcoholic beverages are served.

(c) At all times, a restaurant, in addition to all other places of business licensed to sell alcoholic beverages for consumption on the premises, shall comply with state law and federal law concerning employment of minors and limitations of work duties, hours and all other terms and conditions of employment.

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 05-05, § 1, 3-15-05)

#### **Sec. 4-65. Hours of operations.**

(a) No licensee authorized under the provisions of this chapter to sell alcoholic beverages for consumption on the premises shall open the licensed business premises for the sale or furnishing of alcohol except during the times authorized for the sale of alcoholic beverages as described heretofore in this chapter. Should the licensee authorized to sell alcoholic beverages for consumption on the premises also be licensed as a restaurant or for the sale of food for consumption on the premises, the licensee may be open for the sale of food only during the hours not authorized for the sale of alcoholic beverages.

(b) It shall be unlawful for any licensee for consumption on premises, including but not limited to restaurants and clubs, to keep open for business or admit the public to, or permit the public to remain within, or permit the consumption of alcoholic beverages in or upon the premises in which alcoholic beverages are sold at retail for a period of longer than thirty (30) minutes after the hours within which the sale of alcoholic beverages are prohibited, during which thirty (30) minutes customers will be permitted to consume alcoholic beverages which were purchased during legal hours of sale.

(c) Food service establishments also holding a retail consumption license may remain open only for the service of food during the lawful hours of sale on Sunday so long as they are in full compliance with the requirements to remove alcoholic beverages from availability for the patrons as set forth in section (b).

(Ord. No. 85-27, § 1, 9-3-85; Ord. No. 05-20, § 1, 7-19-05)

Secs. 4-66--4-78. Reserved.

## **ARTICLE IV. WINE, SPIRITUOUS LIQUOR TAX**

### **Sec. 4-79. Levied.**

In addition to all other taxes or license fees heretofore or hereafter imposed upon retail dealers engaged in the city in the business of selling wine, or spirituous liquors, as defined under state law, there is imposed and levied upon all such retail dealers within the city a tax for the privilege of doing such business in the city, to be computed and collected as hereinafter set forth.

(Ord. of 5-4-54, § 1)

### **Sec. 4-80. Amount imposed.**

(a) The amount of the tax imposed by this article shall be computed on each bottle or other container of spirituous liquor on the following basis:

- (1) Five cents (\$0.05) on each one-half pint;
- (2) Ten cents (\$0.10) on each pint;
- (3) Twenty cents (\$0.20) on each quart or major fraction thereof.

(b) The amount of the tax imposed by this article shall be computed on each standard case of wine on the following basis:

Seventy-two cents (\$0.72) on each case.

(Ord. of 6-1-54, § 1; Ord. No. 79-1, § 1, 1-16-79)

### **Sec. 4-81. When payable.**

The tax imposed by this article shall be computable and payable monthly.

(Ord. of 5-4-54, § 3)

### **Sec. 4-82. Wholesale dealer, distributor--Records.**

Each wholesale dealer or distributor selling, shipping or delivering wines or spirituous liquor to any retail dealer in the city, whether delivered to the retail dealer's place of business or elsewhere for resale in the city, shall, as a condition to the privilege of carrying on said business in the city, keep true and correct records of all sales, shipments or deliveries of such wines or spirituous liquors to each retail dealer in the city, such records to be preserved for a period of one year and to be made available on request for the inspection of any duly authorized representative of the city.

(Ord. of 5-4-54, § 3)

### **Sec. 4-83. Same--Collection of tax.**

Each wholesale dealer or distributor of wine or spirituous liquor shall collect from each such retail dealer in the city at the time of delivery of the wines or spirituous liquors, the amount of tax due under the terms of this article and hold the same in trust for the city until such amount is remitted to the

city.

(Ord. of 5-4-54, § 3)

#### **Sec. 4-84. Same--Payment of tax.**

On or before the fifteenth day of each calendar month, each wholesale dealer or distributor of wine or spirituous liquor shall make a verified and comprehensive return to the city, at the office of the City Treasurer, which shall correctly show all sales and deliveries of wines or spirituous liquors made to or for retail dealers in the city of the month immediately preceding said report. Said report shall show the name and address of each retail dealer, and quantities and sizes of the bottles or containers delivered to each retail dealer, the amount collected under the terms of this article, and such other information as may be called for by the city. Said report shall be accompanied by remittance to the city for all taxes collected or due as shown on said report.

(Ord. of 5-4-54, § 3)

#### **Sec. 4-85. Same--Commission.**

Each wholesale dealer or distributor of wine or spirituous liquor is authorized, at the time of making the report and remittance to the city, to deduct five (5) per cent of the total amount of taxes collected as compensation for such services.

(Ord. of 6-1-54, § 2)

#### **Sec. 4-86. Enforcement of collection.**

If any wholesale dealer or distributor fails or refuses to make the returns provided for in this article, the city shall notify said party in writing and if the returns are not made and the taxes remitted within ten (10) days from date of said notice, the city may withdraw from said wholesale dealer or distributor the privilege of doing business in the city by revoking his license. On such failure to make returns and pay the taxes accrued, the city shall proceed to assess the amount of taxes due under this article from retail dealers, who have purchased from such wholesale dealer or distributor, from the best information available and proceed to collect said taxes as provided by ordinance for the collection of delinquent license taxes.

(Ord. of 5-4-54, § 4)

#### **Sec. 4-87. Sale of untaxed wine, liquors.**

It shall be unlawful for any person to sell at retail within the city any wines or spirituous liquors on which the taxes herein provided for have not been paid to the wholesale dealer or distributor for the city or to the city.

(Ord. of 5-4-54, § 5)

#### **Sec. 4-88. Delivery without collection prohibited.**

It shall be unlawful for any wholesale dealer or distributor to deliver any wines or spirituous liquors to any retail dealer in the city without collecting the taxes herein provided for at the time of delivery.

(Ord. of 5-4-54, § 6)

**Sec. 4-89. Possession prohibited when tax unpaid.**

It shall be unlawful and a violation for any person, firm or corporation, other than a licensed wholesale liquor dealer, to keep or possess any liquor within the corporate limits of the city unless the tax imposed by section 4-80 has been paid; provided, however, that it shall not be a violation hereof to keep or possess one-half gallon of liquor, or less, within the city with respect to which a similar tax imposed by the County of Ware or by any other county or city of the state has been paid.

(Ord. No. 77-6, § 1, 8-16-77)

Secs. 4-90--4-99. Reserved.

## **ARTICLE V. MALT BEVERAGES EXCISE TAX**

### **Sec. 4-100. Imposed.**

Except as provided in section 4-101 hereinbelow, there is hereby levied and imposed upon each wholesale dealer selling malt beverages within the city an excise tax in the amount of five cents (\$0.05) per twelve (12) ounces, or proportionately thereof at the rate of .4166 cents per ounce of malt beverages sold by such wholesale dealer within the corporate limits of the city.

(Ord. No. 74-7, § 1, 4-16-74)

### **Sec. 4-101. Draft beer.**

All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer, shall not be subject to the excise tax provided for in section 4-100 above, but in lieu thereof there is hereby imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the city an excise tax of six dollars (\$6.00) for each barrel or bulk container having a capacity of fifteen and one-half (15 1/2) gallons sold by such wholesale dealer within the city, and at a like rate for fractional parts thereof.

(Ord. No. 74-7, § 2, 4-16-74)

### **Sec. 4-102. Cumulative.**

The excise taxes provided for by this article shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages at retail or wholesale, within the corporate limits of the city.

(Ord. No. 74-7, § 5, 4-16-74)

### **Sec. 4-103. Manner of payment.**

Each wholesale dealer who has sold malt beverages within the city shall file a report by the tenth day of each month itemizing for the preceding calendar month the exact quantities of all malt beverages, by size and type of container for the month sold within the city. Each such wholesale dealer shall remit to the city on the tenth day of the month next succeeding the calendar month in which such sales were made, the amount of excise tax due in accordance with this article.

(Ord. No. 74-7, § 3, 4-16-74)

### **Sec. 4-104. Identifying marks not required.**

No decal, stamp, or other identifying marking shall be required on malt beverages sold within the city.

(Ord. No. 74-7, § 4, 4-16-74)

**Sec. 4-105. Penalty.**

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to two (2) per cent of the total amount due during the first thirty (30) day period following the date such report and remittance were due and a further penalty of two (2) per cent of the amount of such remittance for each successive thirty-day period or any portion thereof, during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to ten (10) per cent of the amount of the remittance which would be required under an accurate and truthful report.

Such failure to make a timely report or remittance, or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license issued by the city to said wholesale dealer.

(Ord. No. 74-7, § 6, 4-16-74)

## **ARTICLE VI. EXCISE TAX ON THE SALE OF DISTILLED SPIRITS BY THE DRINK**

### **Sec. 4-106. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Due date* means not later than the fifteenth day after the close of the monthly period for which the tax levied under this article is to be computed.

*Licensee* means any person holding a liquor pouring license under the provisions of Chapter 4 of the code of the city.

*Monthly period* means one of the calendar months of any year.

(Ord. No. 96-40, § 1, 12-17-96)

### **Sec. 4-107. Imposition; rate of tax.**

There is hereby imposed, and there shall be paid, a tax of three (3) percent on the sale of liquor by the drink in the city.

(Ord. No. 96-40, § 1, 12-17-96)

### **Sec. 4-108. Collection by licensee.**

Every licensee shall collect a tax of three (3) percent on the sale of liquor by the drink at his pouring outlet.

(Ord. No. 96-40, § 1, 12-17-96)

### **Sec. 4-109. Due date.**

All amounts of taxes levied under this article shall be due and payable monthly on or before the fifteenth day of every month next succeeding each respective monthly period.

(Ord. No. 96-40, § 1, 12-17-96)

### **Sec. 4-110. Return; time of filing; persons required to file; contents.**

On or before the fifteenth day of the month following each monthly period a return for the preceding monthly period shall be filed with the city clerk showing the gross sales of liquor by the drink by the licensee during the applicable period and the amount of tax collected or otherwise due under this article for the related period, and such other information as may be required by the city clerk.

(Ord. No. 96-40, § 1, 12-17-96)

### **Sec. 4-111. Collection fee allowed licenses.**

Licenses collecting the tax levied under this article shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and payment of the amount due, if such amount is not delinquent at the time of payment. The rate of deduction shall be the same rate authorized for deductions from state tax under the Georgia Retailers' and Consumers' Sales and Use Tax Act (O.C.G.A. § 48-8-1 et seq.), approved February 20, 1951, as now or hereafter amended.

(Ord. No. 96-40, § 1, 12-17-96)

#### **Sec. 4-112. Deficiency determination.**

(a) *Recomputation of tax; authority to make; basis of recomputation.* If the city clerk is not satisfied with any return of the tax levied under this article or the amount of tax required to be paid to the city by any licensee, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one or monthly periods.

(b) *Interest on deficiency.* The amount of the determination shall bear interest at the rate of one and one-half (1.5) percent per month or fraction thereof from the due date of taxes.

(c) *Notice of determination; service.* The city clerk or his designated representatives shall give the licensee written notice of his determination. The notice may be served personally or by mail; if by mail, such services shall be addressed to the licensee at his address as it appears on the records of the city clerk. Service by mail is complete when delivered by certified mail with a receipt signed by the licensee.

(d) Time within which notice of sufficiency determination to be mailed. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the fifteenth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period shall last expire.

(Ord. No. 96-40, § 1, 12-17-96)

#### **Sec. 4-113. Determination if no return made.**

(a) If any licensee fails to make a return, the city clerk shall make an estimate of the amount of the gross receipts of the licensee for the sale of mixed drinks at such licensee's pouring outlet. The estimate shall be made for the periods in respect to which the licensee fails to make the return and shall be based upon any information which is in or may come into the possession of the city clerk.

(b) The amount of the determination shall bear interest at the rate of one and one-half (1.5) percent per month, or fraction thereof, from the fifteenth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

(Ord. No. 96-40, § 1, 12-17-96)

#### **Sec. 4-114. Administration of article; authority of city clerk.**

(a) The city clerk shall administer and enforce the provisions of this article for the collection of the tax imposed by this article.

(b) Every licensee shall keep records, receipts, invoices, and other pertinent papers in such form as the city clerk may require.

(c) The city clerk or any person authorized in writing by the city clerk may examine the books, papers, records, financial reports, equipment and other facilities of the licensee in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.

(d) In administration of the provisions of this article, the city clerk may require the filing of reports by any persons or class of persons having in such persons' possession or custody information relating to the sale of liquor by the drink at the applicable pouring outlet. Reports shall be filed with the city clerk when required by the city clerk and shall set forth the gross sales from the sale of liquor by the drink, the amount of tax imposed and collected thereon, and such other information as the city clerk may require.

(Ord. No. 96-40, § 1, 12-17-96)

#### **Sec. 4-115. Violations.**

Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof, shall be punished as provided in section 1-6 of the Code of the city. Each such person shall be guilty of separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by such person and shall be punished accordingly.

(Ord. No. 96-40, § 1, 12-17-96)